

Bills live and die by dollars and cents

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For many proposed bills, a fiscal note can be a death note

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HELENA — Imagine you're legislator. And you hate cats. So you introduce a bill banning cats in Montana. Tabby cats, Persian cats, tortoiseshells and Siamese.

As you promote your bill, you get strong, bipartisan support: donkey and elephant, red and blue, your colleagues hate cats as much as you. A few grassroots organizations are in opposition — the Northern Rockies Cats Council is meowing loudly. But all in all, things are looking good.

Then comes the fiscal note, an independent analysis of how much your bill is going to cost the state to implement. As your eyes scan the dollar amount, your heart sinks lower and lower with each additional zero.

As it turns out, herding cats isn't just hard, it's expensive, too. The House Committee on Pets and Vets kills the bill. To lift your spirits, a colleague jokes that there may be more than one way to skin this cat. You don't laugh.

Such is the power of the fiscal note, the gold-colored piece of paper that itemizes how much a new law would either cost the state or bring into its coffers. Over the course of any given legislative session, hundreds of such notes are produced.

The governor's budget office oversees the notes. Any bill the Legislature suspects could cost money to implement is sent to the budget office for review. The budget office then passes it on to the agency that the legislation is likely to impact. The agency considers what kind of manpower and resources it would take to implement it.

Sometimes it's decided a bill wouldn't cost a thing. Other times agencies say it could cost millions.

"They have a very, very major impact on how people see a bill," Budget Director David Ewer said last week.

On his desk are large three-ring binders full of fiscal notes. He reviews each one, and signs them if he considers them fair. There's a line for the bill's sponsor to sign, too, but lawmakers don't always choose to endorse the executive branch's take on their legislation.

A pricey fiscal note, Ewer said, "categorically reduces the likelihood of that bill's passage."

Sen. Bob Hawks, D-Bozeman, had some sticker shock when he saw the fiscal note for his bill that would make it cheaper to register electric cars. That fiscal note put a \$51,200 price tag on the bill, the cost of reprogramming the state Department of Motor Vehicles' computers to accommodate Hawks' change.

But while the computer programmer is making Hawks' changes, he or she could also make all the other changes mandated by this year's Legislature, Hawks argued, which would make tacking all the cost onto his bill unfair.

"\$51,000? That's almost a full-time position," Hawks complained outside Senate chambers on Tuesday.

Needless to say, Hawks did not sign the fiscal note. He said he would work to convince lawmakers that the note did not tell the full picture.

Fiscal notes "are always a point of contention," Hawks said. "Legislators are not afraid to take these figures on."

Sen. Joe Balyeat, R-Bozeman, said he has never signed a fiscal note since he took office. That's in part because he is a certified public accountant, he said, so he must be careful about what financial statements he puts his John Hancock on. But it's also because he has major reservations about the reports.

First, they don't take into account how a law might affect people's behavior, he said. For example, consider a bill to reduce the state income tax. The fiscal note for that bill would state how much money the state would lose, with all else remaining equal. But Balyeat said all else would not remain equal — he predicted tax revenue would increase if income taxes were lowered.

Also, Balyeat said, state agencies favor the bureaucracy when preparing the notes, but do not take into account the affect a law might have on private business.

"Our fiscal notes always frame the issue of more laws, more programs, more regulations in terms of what it will cost the government," he said. "What normally dwarfs cost to government is what those law changes cost society."

Ewer admitted that preparing the fiscal notes does make his office a lightning rod, but said it was the best system around. Having the executive branch prepare the notes keeps them insulated from the pressure of legislators, he argued. Plus, he is the only politically appointed individual associated with the fiscal notes and his staff takes political objectivity seriously.

Balyeat is preparing a bill for this session that would amend how fiscal notes are prepared. It would require agencies to also consider how a bill may change the behavior of Montanans and what fiscal impact a bill might have on private industry.

He's gaining strong support for the bill and has found about 35 co-sponsors.

The fiscal note for that bill is pending.

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